

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

SUMMONS

-----X
MARC LANDRY,

Plaintiff(s)

-against-

ARCHDIOCESE OF NEW YORK and
CONGREGATION OF THE BLESSED
SACRAMENT,

Defendant(s).
-----X

Plaintiff(s) designate
NEW YORK County as the
place of trial.

The basis of the venue is
Defendant's place of business

Plaintiff(s) reside at
16-1370 Uau Road
Mountain View, HI 96771

Index No.:
Date Summons &
Complaint Filed:

To the above named Defendant(s)

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or if the complaint is not served with this summons, to serve a notice of appearance on the plaintiff's attorney(s) within twenty days after the services of this summons exclusive of the day of service, where service is made by delivery upon you personally within the state, or within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Port Washington, NY
September 9, 2019


Brett A. Zekowski
Parker Waichman LLP
Office & Post Office Address:
6 Harbor Park Drive
Port Washington, NY 11050
(516) 466-6500
Our File # 820796

TO: Archdiocese of New York
1011 First Avenue
New York, NY 10022

Congregation of the Blessed Sacrament
5384 Wilson Mills Road
Cleveland, OH 44143

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK-----X
MARC LANDRY,

Plaintiff(s)

-against-

ARCHDIOCESE OF NEW YORK and
CONGREGATION OF THE BLESSED
SACRAMENT,Defendant(s).
-----X**VERIFIED COMPLAINT**

Index No.:

Jury Trial Demanded

Plaintiff, Marc Landry, by his attorneys Parker Waichman LLP, complaining of the defendants, respectfully alleges, on personal knowledge as to himself and on information and belief as to all other matters, as follows:

1. At the time of the commencement of this action plaintiff, Marc Landry, was a resident of the County of Hawaii, State of Hawaii.
2. At the time of the incident(s) giving rise to this complaint, plaintiff was a resident of the County of Dutchess, State of New York.
3. This action is timely pursuant to CPLR 214-g.
4. At all times herein mentioned, defendant, Archdiocese of New York, was a religious corporation organized pursuant to the Religious Corporations Law, with its principal office at 1011 First Avenue, New York, New York.
5. At all times herein mentioned, defendant, Congregation of the Blessed Sacrament, was a religious corporation organized pursuant to the Religious Corporations Law with its principal office 5384 Wilson Mills Road, Cleveland, Ohio.
6. At all times herein mentioned, Eymard Preparatory Seminary, was a Roman Catholic Seminary school located in Hyde Park, New York.

7. At all times herein mentioned, defendants, Archdiocese of New York and the Congregation of the Blessed Sacrament, oversaw, managed, controlled, directed and operated Eymard Preparatory Seminary.

8. At all times herein mentioned, defendant, Archdiocese of New York, managed, supervised and controlled those who were employed or otherwise worked for Eymard Preparatory Seminary, including, but not limited to priests, brothers, nuns and other personnel and volunteers, both while they were on premises and engaged in off-premises activities related to their employment with Eymard Preparatory Seminary.

9. At all times herein mentioned, defendant, Congregation of the Blessed Sacrament, managed, supervised and controlled those who were employed or otherwise worked for Eymard Preparatory Seminary, including, but not limited to priests, brothers, nuns and other personnel and volunteers, both while they were on premises and engaged in off-premises activities related to their employment with Eymard Preparatory Seminary.

10. From on or about January 1, 1969 through on or about December 31, 1971, plaintiff, an infant, attended Eymard Preparatory Seminary.

11. From on or about January 1, 1969, through on or about December 31, 1971, plaintiff was a parishioner and/or student of defendant, Eymard Preparatory Seminary.

12. At all times herein mentioned and relevant to the allegations set forth herein, Brother Michael O'Leary, was a Brother assigned by defendant, Archdiocese of New York, to Eymard Preparatory Seminary.

13. At all times herein mentioned and relevant to the allegations set forth herein, Brother Michael O'Leary, was a Brother assigned by defendant, Congregation of the Blessed Sacrament, to Eymard Preparatory Seminary.

14. At all times herein mentioned and relevant to the allegations set forth herein, Brother Michael O'Leary, was a Brother at Eymard Preparatory Seminary.

15. At all times herein mentioned, Brother Michael O'Leary, was employed by defendant, Archdiocese of New York.

16. At all times herein mentioned, Brother Michael O'Leary, was employed by the defendant, Congregation of the Blessed Sacrament.

17. At all times herein mentioned, Brother Michael O'Leary, was employed by the Eymard Preparatory Seminary.

18. At all times herein mentioned, all employees of Eymard Preparatory Seminary were employees of defendant, Archdiocese of New York.

19. At all times herein mentioned, all employees of Eymard Preparatory Seminary were employees of defendant, Congregation of the Blessed Sacrament.

20. Through his position with defendant, Archdiocese of New York, Brother Michael O'Leary, was put in direct contact with plaintiff, Marc Landry, then an infant.

21. Through his position with defendant, Congregation of the Blessed Sacrament, Brother Michael O'Leary, was put in direct contact with plaintiff, Marc Landry, then an infant.

22. Through his position with Eymard Preparatory Seminary, Brother Michael O'Leary, was put in direct contact with plaintiff, Marc Landry, then an infant.

23. That on or about January 1, 1969 through December 31, 1971, the Brother Michael O'Leary, sexually abused the plaintiff.

24. At all times herein mentioned, Brother Michael O'Leary, was under the management, supervision, employ, direction and/or control of defendant, Archdiocese of New York.

25. At all times herein mentioned, Brother Michael O'Leary, was under the management, supervision, employ, direction and/or control of defendant Congregation of the Blessed Sacrament.

26. At all times herein mentioned, Brother Michael O'Leary, was under the management, supervision, employ, direction and/or control of Eymard Preparatory Seminary.

27. Defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, knew and/or reasonably should have known and/or knowingly condoned and/or covered up, the inappropriate and unlawful sexual activities of Brother Michael O'Leary, who sexually abused the plaintiff, Marc Landry, while, plaintiff, Marc Landry, was an infant.

28. Defendant, Archdiocese of New York, had the responsibility to manage, supervise, control and/or direct priests and brothers assigned to defendant, Congregation of the Blessed Sacrament.

29. Defendant, Archdiocese of New York, had the responsibility to manage, supervise, control and/or direct priests and brothers assigned to Eymard Preparatory Seminary.

30. Defendant, Congregation of the blessed Sacrament, had the responsibility to manage, supervise, control and/or direct priests and brothers assigned to Eymard Preparatory Seminary.

31. At all relevant times, defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, had a duty not to aid pedophiles such as Brother Michael O'Leary, by assigning, maintaining and/or appointing him to positions in which he would have access to minors.

32. At all relevant times, Brother Michael O'Leary, used his position as a brother to entice, take control of plaintiff, Marc Landry, and sexually assault, sexually abuse or have sexual contact with plaintiff, Marc Landry, while plaintiff was a minor.

33. Defendants, individually, jointly and/or severally, violated various New York statutes, including, but not limited to N.Y. Soc. Serv. Law §§413 and 420, which require school officials and teachers to report suspected cases of child abuse and impose liability for failure to report.

34. Plaintiff suffered physical and psychological injuries and damages as a result of his childhood sexual abuse by Brother Michael O'Leary.

35. As a direct result of defendants' conduct, plaintiff suffered and will continue to suffer great pain of body and mind, severe and permanent emotional distress and physical manifestations of emotional distress. As a result of his childhood sexual abuse, plaintiff has been prevented from obtaining the full enjoyment of life, has incurred and will continue to incur expenses for medical and psychological treatment, therapy and counseling and has incurred and will continue to incur loss of income and/or loss of earning capacity.

36. Because of his childhood sexual abuse, plaintiff, Marc Landry, is unable to fully describe all of the details of that abuse and the extent of the harm that he suffered as a result.

**AS AND FOR A FIRST CAUSE OF ACTION
NEGLIGENT HIRING, RETENTION, SUPERVISION AND/OR DIRECTION**

37. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 36 as if fully set forth herein.

38. The sexual abuse of children by adults, including priests, brothers and teachers, is foreseeable.

39. Defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, at all relevant times represented and held out to the public, Eymard Preparatory Seminary, to be safe places for learning and participating in youth activities.

40. At all relevant times, defendants, Archdiocese of New York and Congregation of

the Blessed Sacrament and Eymard Preparatory Seminary, were each under an express and/or implied duty to protect and care for plaintiff, Marc Landry.

41. Defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, negligently hired, retained, directed and supervised Brother Michael O'Leary, because they knew or should have known that Brother Michael O'Leary, posed a threat of sexual abuse of children such as plaintiff.

42. Defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, knew or should have known that Brother Michael O'Leary, had a propensity to engage in the conduct which caused plaintiff's injuries prior to or about the time of the occurrence of these injuries.

43. Defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, owed a duty of care to all minors, including plaintiff, who were likely to come under the influence or supervision of Brother Michael O'Leary, in their role as teacher, priest, brother, counselor, trustee, director, officer, employee, agent, servant and/or volunteer to ensure that Brother Michael O'Leary, did not use their assigned positions to injure minors by sexual assault, sexual abuse or sexual contact with minors.

44. Brother Michael O'Leary, sexually assaulted, sexually abused and/or had sexual contact with plaintiff, Marc Landry, on defendants' premises, including defendant, Eymard Seminary.

45. Defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, were put on notice of Brother Michael O'Leary's improper and inappropriate actions toward minors.

46. Defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, were negligent in failing to properly supervise Brother Michael

O'Leary.

47. Defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, were negligent in failing to properly manage Brother Michael O'Leary.

48. Defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, were negligent in failing to properly control Brother Michael O'Leary.

49. At all relevant times, defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, were willful, wanton, malicious, reckless and/or outrageous in their disregard for the rights and safety of plaintiff.

50. As a direct and proximate result of defendants' above described omissions, plaintiff has suffered and will continue to suffer the injuries described herein.

51. By reason of the foregoing, the defendants are liable to plaintiff jointly, severally and/or in the alternative, for compensatory damages and punitive damages, together with costs and interest in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION
NEGLIGENCE/GROSS NEGLIGENCE**

52. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 51 as if fully set forth herein.

53. Defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, knew or negligently failed to know that Brother Michael O'Leary, posed a threat of sexual abuse to children.

54. The acts of Brother Michael O'Leary, as described above, were undertaken,

enabled by, and/or during the course of their respective employment, assignment, appointment and/or agency with defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary.

55. Defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary:

- a. gave improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons in work involving risk of harm to others;
- b. failed to adequately supervise the activities of Brother Michael O'Leary;
- c. failed to adequately supervise and safeguard minors attending Eymard Preparatory Seminary;
- d. permitted and/or intentionally failed and/or neglected to prevent negligent or tortious conduct by persons, whether or not their servants, agents or employees, upon premises under their control; and
- e. allowed the acts of omission and/or commission of any or all of the allegations set forth in this Complaint to occur.

56. At all relevant times Brother Michael O'Leary, was under the supervision, employ, direction and/or control of defendants, Archdiocese of New York and Congregation of the Blessed Sacraments and Eymard Seminary.

57. At all relevant times, defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, were wanton, willful, malicious, reckless and outrageous in their disregard for the rights and safety of plaintiff, which conduct was equivalent to criminal conduct.

58. As a direct and/or indirect result of said conduct, plaintiff has suffered injuries and damages as described herein.

59. By reason of the foregoing, defendants jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and for punitive damages, together with interest and costs in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**THIRD CAUSE OF ACTION
BREACH OF FIDUCIARY DUTY**

60. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 59 as if fully set forth herein.

61. At all relevant times, there existed a fiduciary relationship of trust, confidence, and reliance between plaintiff, on the one hand, and defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, on the other, based upon the entrustment of plaintiff, while he was a minor child, to the care and supervision of the defendants and each of them, as a parishioner, worshiper, invitee, attendee or guest at Eymard Preparatory Seminary, and as a student, invitee, attendee or guest at Eymard Preparatory Seminary. The entrustment of the plaintiff to the care and supervision of the defendants and each of them, while plaintiff was a minor child, required the defendants to assume a fiduciary role and to act in the best interests of the plaintiff and to protect him while he was a minor and vulnerable child.

62. Pursuant to their fiduciary relationship with plaintiff, defendants were entrusted with the well-being, care and safety of plaintiff.

63. Pursuant to their fiduciary relationship with plaintiff, defendants assumed a duty to act in the best interests of plaintiff.

64. Defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, breached their fiduciary duties to plaintiff.

65. At all relevant times, the actions and/or inactions of defendants, Archdiocese of

New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, were willful, malicious, wanton, reckless and outrageous in their disregard for the rights and safety of plaintiff.

66. As a direct result of defendants' conduct, plaintiff has suffered injuries and damages described herein.

67. By reason of the foregoing, defendants, jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and for punitive damages, together with interest and costs in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**FOURTH CAUSE OF ACTION
BREACH OF NON-DELEGABLE DUTY**

68. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 67 as of fully set forth herein.

69. When he was a minor, plaintiff, Marc Landry, was placed in the care of defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, for the purposes of providing plaintiff with a safe environment in which to participate in youth activities and receive an education. There was thus created a non-delegable duty of trust between plaintiff and defendants.

70. Plaintiff, Marc Landry, was a vulnerable child when placed in the care of defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary.

71. Defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, and each of them, were in the best position to prevent plaintiff from being abused and/or to have learned of the repeated abuse by Brother Michael O'Leary, and

to have stopped it.

72. As evidenced by the fact that plaintiff, Marc Landry, was sexually abused as a minor child entrusted to the care of the defendants, these defendants breached their non-delegable duty to plaintiff.

73. At all relevant times, Brother Michael O'Leary, was under the supervision, employment, direction and/or control of defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary.

74. As a result of the sexually abusive conduct of Brother Michael O'Leary, plaintiff, Marc Landry, suffered the injuries and damages described herein, the full extent of which is unknown at present.

75. By reason of the foregoing, defendants jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and for punitive damages, together with interest and costs in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**FIFTH CAUSE OF ACTION
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

76. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 75 above as if set forth at length herein.

77. As described above, defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, acted in a negligent and/or grossly negligent manner.

78. The actions of defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, endangered plaintiff's safety and caused him to fear for his own safety.

79. As a direct and proximate result of the actions of defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, which included, but were not limited to, negligent and/or grossly negligent conduct, plaintiff suffered severe injuries and damages as described herein, including, but not limited to, mental and emotional distress.

80. By reason of the foregoing, defendants, jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and for punitive damages, together with costs and interest in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**SIXTH CAUSE OF ACTION
BREACH OF DUTY *IN LOCO PARENTIS***

81. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 80 as if set forth at length herein.

82. While he was a minor, plaintiff was entrusted by his parents to the control of the defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, for the purposes of providing plaintiff with an education and allowing him to participate in youth activities sponsored by defendants. During the times that plaintiff was at school and during the times that he participated in youth activities, he was under the supervision and control of defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary. These defendants, and each of them, at all relevant times and now, owed and owe a duty to children entrusted their care to act *in loco parentis* and to prevent foreseeable injuries.

83. Defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, breached their duty to act *in loco parentis*.

84. At all relevant times the actions of defendants, Archdiocese of New York, and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, were willful, malicious, wanton, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of plaintiff.

85. As a direct result of defendants' conduct, plaintiff, Marc Landry, has suffered the injuries and damages described herein.

86. By reason of the foregoing, defendants jointly, severally and/or in the alternative, are liable to plaintiff for compensatory damages, and for punitive damages, together with interest and costs in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**SEVENTH CAUSE OF ACTION
BREACH OF STATUTORY DUTY PURSUANT TO NEW YORK
SOCIAL SERVICES LAW §§ 413, 420 TO REPORT ABUSE**

87. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 86 as if fully set forth herein.

88. Pursuant to N.Y. Social Services Law §§413, 420, defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, had a statutory duty to report the reasonable suspicion of abuse of children in their care.

89. Defendants, Archdiocese of New York and Congregation of the Blessed Sacrament and Eymard Preparatory Seminary, breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by Brother Michael O'Leary, of children in their care.

90. As a direct and/or indirect result of said conduct, plaintiff has suffered injuries and damages as described above.

91. By reason of the foregoing, defendants jointly, severally and/or in the alternative are liable to plaintiff for compensatory damages and punitive damages, together with costs and

interest in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff demands judgment against defendants on each cause of action as follows:

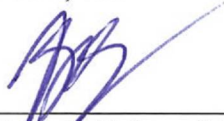
- A. Awarding compensatory damages in an amount to be proven at trial, but in any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding prejudgment interest to the extent permitted by law;
- D. Awarding costs and fees of this action, including attorneys' fees, to the extent permitted by law;
- E. Awarding such other and further relief as to this Court may seem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: Port Washington, New York
September 9, 2019

Yours, etc.



Brett A. Zekowski
Parker Waichman LLP
Attorneys for Plaintiff(s)
Office & Post Office Address
6 Harbor Park Drive
Port Washington, NY 11050
516-466-6500
Our File # 820796

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Brett A. Zekowski

Index No.

SUPREME COURT OF THE STATE OF NEW YORK
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MARC LANDRY,

Plaintiff(s)

-against-

ARCHDIOCESE OF NEW YORK and CONGREGATION OF THE BLESSED SACRAMENT,

Defendant(s).

SUMMONS AND VERIFIED COMPLAINT

Certification per 22NYCRR §130-1.1a


Brett A. Zekowski
Parker Waichman LLP
Attorneys for Plaintiff(s)
6 Harbor Park Drive
Port Washington, NY 11050
(516) 466-6500

To:
Attorney(s) for

Service of a copy of the within is hereby admitted.

Dated:
Attorney(s) for

PLEASE TAKE NOTICE

NOTICE OF

ENTRY that the within is a (certified) true copy of a entered in the office of the Clerk of the within named
Court on 2019 .

NOTICE that an Order of which the within is a true copy will be presented to the Hon. , one of the
OF
SETTLEMENT judges of the within named Court, at ,
, on
20 , at M.

Dated:

Parker Waichman LLP
Attorneys for Plaintiff(s)

TO: